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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-187
Implementation of Section 402(b)(1)(A)	)	
of the Telecommunications Act of 1996	)	

AMERITECH REPLY

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October 24, 1996

No. of Copies rec'd 0+11
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I. INTRODUCTION AND SUMMARY

The Ameritech Operating Companies (Ameritech) respectfully submit this reply to comments on the Commission's Notice of Proposed Rulemaking (the Notice) in the above-captioned proceeding. In this proceeding, the Commission proposes rules to implement section 402(b)(1)(a) of the Telecommunications Act of 1996 (47 U.S.C. § 204(a)(3)), which requires the Commission to streamline its regulations and policies governing local exchange carrier (LEC) tariffs.

In its Comments, Ameritech urged the Commission to adopt rules that are faithful to the text of new section 204(a)(3) and Congress' stated goal of providing for a pro-competitive, deregulatory national framework that promotes the development of advanced services. In doing so, Ameritech tried to stake out a reasonable ground that is consistent, not only with the 1996 Act, but with sound public policy. Ameritech did not argue, for example, that the term "deemed lawful" means "is lawful," although a plausible legal argument could be made to that effect.

Unfortunately, however, most of Ameritech's competitors and prospective competitors take a different approach. Instead of suggesting constructive ways to implement the Act and Congress' intent, they urge the Commission to ignore the plain meaning of section 204(a)(3) or to read that provision in a tortured manner that would deny local exchange carriers (LECs) the streamlined regulation Congress intended and provided for. To be sure, many of them couch their arguments with feigned good intentions, conceding, for example, that Congress intended "a substantial change in the tariff review procedures"[1] or that Congress intended to speed up consideration of streamlined tariffs and reduce the risk of their suspension.[2] These so-called "concessions," though, concede nothing, since some of these same parties would effectively or explicitly exclude from section 204(a)(3) coverage virtually all LEC tariffs other than in-band rate increases and decreases -- which are already subject to streamlined treatment.[3] In other words, while pretending to be proposing a new streamlined framework, LEC competitors really propose a continuation of the status quo, or something very close to it. This is not what Congress intended, and it would not serve the public interest. As competition in access services accelerates and as barriers to local exchange competition are removed, customers are best served by a dynamic marketplace in which all competitors have the incentive and ability to respond quickly to customers needs.

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1 See e.g. MCI Comments at 4.

2 See ALTS Comments at 1-2; Time Warner Comments at 4-5; TRA Comments at 3; CompTel Comments at 2-3.

3 While these parties would extend streamlined treatment to price increases and decreases that are above or below applicable price cap indices or bands, such filings are extremely rare.

Ironically, however, most of the parties proposing overly narrow readings of section 204(a)(3) proceed from the flawed assumption that only incumbent LECs are subject to that provision. That is not the case; the provision applies on its face to all LECs. Thus, while so-called "competitive LECs" (CLECs) serve up their twisted interpretations of the statute with the aim of maintaining regulatory advantages, their effort is misplaced. Unless and until the Commission exercises its forbearance authority, the restrictions and limitations they propose would apply to CLECs as well as incumbent LECs.

In any event, their suggested reading of section 204(a)(3) is unsustainable. That section provides quite clearly that LECs may file new or revised charges, classifications, regulations, or practices on a streamlined basis. It does not limit streamlined treatment to price increases and decreases or to existing services; it does not permit the Commission to defer tariffs subject to streamlined regulation; it does not permit the Commission to emasculate the effects of streamlining by requiring lengthy notice periods prior to the time of a filing. Rather, it is an integral part of Congress' intent to provide for a "pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and infromation technologies and services to all Americans by opening all telecommunications markets to competition."[4] The Commission must apply the statute as written and in a manner consistent with this intent.

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4 See Notice at para. 1. As NYNEX notes in its Comments, the tariff streamlining provisions are an essential part of the "Regulatory Reform" measures of the 1996 Act. See NYNEX Comments at 4. Those measures, set forth in Title IV of the Act, envision a significant reduction in regulatory burdens. For example, they confer forbearance authority on the FCC. They also direct the FCC to conduct a biennial review of all of its regulations and to eliminate those that are no longer necessary to protect the public interest, and they eliminate section 214 requirements for line extensions. In construing section 204(a)(3), the Commission must consider the broader context in which these provisions are set forth in the Act.

II. THE COMMISSION MAY NOT DEFER TARIFFS FILED UNDER SECTION 204(a)(3)

As Ameritech showed in its Comments, section 204(a)(3) by its terms prohibits the Commission from deferring streamlined LEC tariffs. Most parties, including MCI, CompTel, and Sprint agree with this conclusion.[5] AT&T, ACTA, and TRA, however, do not.[6] They argue that since Congress did not repeal section 203(b)(1), the Commission retains authority to defer streamlined tariffs. They suggest that section 204(a)(3) establishes time limits only on the Commission's deliberations over whether to suspend a tariff filing.

These arguments are specious, both from a legal and policy perspective. Section 204(a)(3) states quite clearly that LEC tariffs shall be effective in 7 or 15 days unless the Commission takes action under section 204(a)(1). The Commission's deferral authority derives, not from section 204(a)(1), but from section 203(b). Therefore, section 204(a)(3) on its face prohibits the deferral of streamlined tariffs. The fact that Congress did not repeal section 203 is irrelevant. Under well-established principles of statutory construction, the more specific provisions of section 204(a)(3) take precedence over the more general terms of section 203.[7]

Because the law is clear on this point, any discussion of policy, or even congressional intent, is superfluous. Nevertheless, it bears noting that those who maintain that the Commission retains the authority to defer streamlined tariffs

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5 MCI Comments at 2; CompTel Comments at 2; Sprint Comments at 2.

6 AT&T Comments at 1-4; ACTA Comments at 1-4; TRA Comments at 6.

7 Busic v. United States, 446 U.S. 398, 406 (1980); Brown v. General Services Admin., 425 U.S. 820, 834 (1976).

do not and cannot reconcile this position with what most parties agree is one of the principle purposes of section 204(a)(3) -- ensuring the expeditious review of LEC tariffs.[8] Moreover, their position would lead to the curious result that the Commission could defer a LEC tariff, but, having done so, could not then decide to suspend and investigate it.

ACTA contends that construing section 204(a)(3) to preclude deferrals would render section 203(b)(2) meaningless. This is incorrect. The Commission would continue to maintain authority to defer tariffs that were not filed under section 204(a)(3) -- namely, tariff filings that LECs choose not to make on a streamlined basis, and interexchange carrier filings.[9] Thus, ACTA's invocation of the axiom that statutes should be construed so as to give effect to all of their terms is inapt.

III. SECTION 204(a)(3) ESTABLISHES A STRONG PRESUMPTION OF LAWFULNESS

Many parties, including Ameritech's competitors, agree with Ameritech's position that the "deemed lawful" language in section 204(a)(3) attaches a presumption of lawfulness to LEC tariffs.[10] Indeed, many parties concede that the presumption of lawfulness "requires a substantial change" in tariff review procedures[.][11] Like Ameritech, they argue that the Commission should draw

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8 See note 2, supra.

9 While the Commission does not, as a matter of policy, engage in pre-effective review of nondominant carrier filings, the Commission is not precluded by law from doing so.

10 Ad Hoc suggests that the term "deemed lawful" means nothing at all. It argues that Congress merely intended to restate current law. Ad Hoc Comments at 2. This view is at odds with the principle of statutory construction that statutes should be construed to give meaning to all of their statutory terms. See Sutherland Stat. Const. § 46.05 (4th ed. 1984).

11 See eg. MCI Coments at 9.

upon its existing streamlining practices in applying section 204(a)(3). AT&T, for example, argues that the presumption of lawfulness conferred by section 204(a)(3) is "analagous to that accorded to LEC rate filings that are within applicable price cap limits or to filings by non-dominant carriers under section 1.773 of the Commission's rules."[12] AT&T goes on to state that "tariffs filed pursuant to [section 204(a)(3)] should not be suspended unless a petitioner makes a showing similar to the four-part test required under 47 CFR §1.773."[13] MCI notes that [b]y choosing to characterize the tariff review process established by Section 204(a)(3) as 'streamlined,' Congress was making a clear reference to the Commission's past use of the term 'streamlined' in the context of tariff review.[14] Likewise, McLeod argues that, like streamlined tariffs subject to Section 1.773(a), streamlined tariffs filed pursuant to section 204(a)(3) should also be considered *prima facie* lawful.[15]

While these carriers thus acknowledge that existing rules for streamlined tariffs should be the model for applying section 204(a)(3), the test they and others propose to this end deviates significantly from existing streamlining requirements. For example, whereas today a streamlined tariff will not be suspended unless, *inter alia* "there is a high probability the tariff would be found unlawful," AT&T and McLeod suggest that the standard for LEC tariffs should be whether "it is more likely than not" that the tariff will be found unlawful.[16]

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12 AT&T Comments at 7-8.

13 Id. at 8.

14 MCI Comments at 4.

15 McLeod Telemanagement Comments at 7-8. See also Time Warner Comments at 5.

16 It should be noted that while section 1.773(a) covers three different types of streamlined filings and establishes slightly different standards for each, in all three cases, a party seeking suspension of the streamlined tariff must show, *inter alia* : (1) that there is a high probability the tariff would be found unlawful after investigation; and (2) irreparable injury will result if the tariff is not suspended.

Similarly, MCI suggests that the standard should be whether "there is a probability" that the tariff would be unlawful. Moreover, whereas parties seeking suspension of streamlined tariffs must today also show that irreparable injury will result if the tariff is not suspended, MCI asks the Commisson to shift the burden of showing irreparable injury to the LEC that is seeking to avoid suspension.

These proposed revisions to the Commission's regulations governing streamlined filings cannot be reconciled with the purpose of section 204(a)(3). Indeed, with respect to in-band rate increases and decreases, which are today subject to section 1.773 review standards, these proposals would heighten, not streamline, pre-effective review.

These proposals are also inconsistent with the meaning of the term "deemed lawful." As the Commission points out in the Notice, Black's Law Dictionary defines "deem" as "to hold, consider, adjudge, believe, condemn, determine, treat as if, construe." Consistent with this definition, Congress uses the term "deemed" in other sections of the Communications Act to connotate a definitive conclusion. For example, section 3(10) of the Act provides that "a person engaged in radio broadcasting shall not . . . be deemed a common carrier."[17] Likewise, section 10(c) provides that a petition for forbearance "shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance[.]"[18] In this respect, construing the term

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17 47 U.S.C. § 153(10).

18 47 U.S. C. § 160(c).

"deemed lawful" to establish merely a presumption of lawfulness arguably dilutes the term "deemed."[19]

Ameritech does not oppose a holding that streamlined tariffs are entitled only to a rebuttable presumption of lawfulness. Since the Commission retains its power to suspend a streamlined LEC tariff, it is clear that Congress did not intend to establish a conclusive presumption that every streamlined tariff is lawful. At the same time, however, the Commission must recognize that "deemed" is a stronger word than "presumed." Therefore, if "deemed lawful" is to mean "presumed lawful," the presumption must be a strong one. The watered-down versions proposed by some commenters are hardly presumptions at all. They must be rejected as inconsistent with the statute.

Some parties argue that applying the section 1.773 test to incumbent LECs would be inappropriate insofar as incumbent LECs should not be subject to rules that apply to nondominant LECs. Ameritech takes issue with the assumption underlying these arguments that asymmetric regulatory policies serve the public interest. On the contrary, Ameritech believes that they distort competition, encourage inefficient entry, and promote the type of regulatory gamesmanship that is evident in this proceeding.[20] Irrespective of that, however, this argument is misplaced because it assumes that section 204(a)(3) applies only to incumbent LECs. As discussed above, it does not. It applies by its explicit terms to all LECs. Thus, Congress has decided that, except to the extent the Commission exercises its forbearance authority, all LECs will be treated the same for tariff review purposes.

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19 See e.g. PTG Comments at 4; Bell Atlantic Comments at 7; NYNEX Comments at 9.

20 These arguments also ignore that section 1.773 already applies to some dominant carrier filings -- for example, filings that fall within applicable price cap bands and indices.

Even if this is not the case -- that is, even if section 204(a)(3) were construed to apply only to incumbent LECs -- applying the section 1.773 standard (or something very close to it) to incumbent LECs would not confer on them the benefits of nondominant status. Because nondominant LECs are now able to file their tariffs on one-day notice, they enjoy <u>absolute</u> protection against suspension. Section 1.773 is, for them, a practical nullity. In contrast, incumbent LEC tariffs would continue to be subject to some level of pre-effective scrutiny and could be suspended if the section 1.773 test was met.

IV. SECTION 204(a)(3) APPLIES TO ANY NEW OR REVISED CHARGE, CLASSIFICATION, REGULATION, OR PRACTICE

In its comments, Ameritech took issue with the Commission's suggestion that section 204(a)(3) might apply only to existing services. Ameritech showed that such a limitation could not be justified from either a legal or policy standpoint.

LECs agree with Ameritech. Certain others, however, do not. Some of them endorse the Commission's suggestion that section 204(a)(3) could be construed to apply only to "new charges, classifications, regulations, or practices" for existing services. These parties base their argument on: (1) the policy reasons suggested by the Commission in the Notice, and (2) the Conference report, which refers only to "revision by local exchange carriers of charges, classifications and practices[.]"

Ameritech explained in its Comments that denying streamlined treatment to new services is indefensible as a matter of policy and inconsistent with the

Commission's own past statements. Ameritech will not repeat those arguments here, except to reiterate that, insofar as new services add to customers options, new services tariffs are the very type of filing that ought to be allowed into effect on a streamlined basis. Customers cannot be hurt, since they always have the option of retaining their existing services if the rates and terms of the new offering are not just and reasonable.

Streamlined processing of filings for new services would also increase incentives for carriers to develop and introduce innovative new offerings. Today, those incentives are blunted, not only because LECs cannot bring new services to the market quickly enough, but because the lengthy advance notice requirements deny LECs the first-mover advantages that spur innovation. Thus, streamlining new service filings is directly related to Congress' goal of "accelerat[ing] rapidly private sector deployment of advanced telecommunications and information technologies and services[.]"[21]

With respect to the Conference Report, the fact that the one sentence in the Conference Report that addresses section 204(a)(3) does not mention "new" charges, classifications, or practices is of no import given that the text of the statute explicitly does. Indeed, the Conference Report also fails to speak of new or revised "regulations," but that does not mean that new or revised tariff regulations are omitted from the scope of section 204(a)(3). What it does mean is

21 See note 4, supra. The Commission should also act on its proposal in the Price Caps Second Further Notice to eliminate the Part 69 waiver process. This unnecessary and cumbersome process significantly delays the introduction of new services, and is directly at odds not only with Congress' pro-competitive, deregulatory goals, but also its goal of encouraging deployment of advanced technologies and services.

that the single sentence in the Joint Statement is incomplete. To the extent the legislative history is different from the statute itself, the statute must control.

Certain other parties take a more extreme view than those endorsing the Commission's suggested approach. Some, such as Frontier, ALTS and McLeod, would completely write the first sentence of section 204(a)(3) out of the statute and allow streamlined treatment only of rate increases or decreases.[22] Clearly, these suggestions are not credible insofar as the statute states quite clearly, and without qualification, that "[a LEC] may file a new or revised charge, classicication, regulation, or practice on a streamlined basis." The Commission should reject these arguments out-of-hand. They are inconsistent with the principle that a statute should be construed so as to give meaning to all its terms.[23]

Others pay lip service to the first sentence of section 204(a)(3) but propose that it be implemented in a way that would render it meaningless. For example, MCI asserts that, while filings other than rate increases or decreases qualify for streamlining, they should continue to be filed on 45-days notice. MCI bases this argument on the theory that the 45-day notice period is already streamlined, since it is less than the statutory maximum of 120 days.[24] MFS also suggests that the Commission "streamline" its regulation of new and revised classifications,

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22 Frontier argues further that the Commission should establish a conclusive presumption that out-of-band or above-cap filings that are ultimately rejected will be met with "substantial monetary forfeitures." Frontier Comments at 6. Frontier's proposal is frivolous insofar as the Commission lacks authority to fine a carrier for charging legal rates the Commission allows to go into effect.

23 See Sutherland Stat. Const. § 46.05 (4th ed. 1984).

24 MCI Comments at 4.

regulations, or practices, without reducing the notice period, though it relies on a different theory to advance this argument. Citing section 61.54 (which relates to the composition of nondominant carrier tariffs), MFS argues that the Commission "has previously adopted streamlined tariff rules that do not address notice periods."[25] AT&T does not deign to go so far as MCI and MFS, but instead suggests 30-day filing periods for new or revised charges, classifications, and practices.

These proposals should be rejected. If Congress intended to preserve the status quo, it would not have enacted section 204(a)(3). If it had intended that filings be made on 30 days notice, it would not have directed the Commission to "streamline" its regulation of LEC tariffs. Thirty-day filing periods may be slightly shorter than today's filing periods for certain types of tariffs, but they are hardly "streamlined." Indeed, to Ameritech's knowledge, streamlined tariff regulation has always encompassed a notice period of 14 days or less. In this regard, MFS' claim that the Commission has implemented streamlined regulation without shortening the notice period is patently false. By citing to section 61.22(d) of the Commission's rules, the only thing MFS demonstrates is that the streamlined notice requirements for nondominant carriers are placed in a different section of the rules than the requirements relating to tariff composition.

In contrast to these frivolous, self-serving proposals, the Commission's tentatative conclusion that Congress intended that streamlined tariffs be filed on 7 or 15 days notice is correct and should be adopted. Section 204(a)(3) prescribes

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25 MFS Comments at 4.

different notice periods for rate decreases and increases because Congress correctly perceived that rate decreases warrant minimal scrutiny and rate increases warrant maximum scrutiny in the context of a streamlined regulatory framework. In this respect, the 15 day notice period defines an upper bound. Longer periods for new or revised classifications, regulations, or practices are not permitted.

V. PRE-EFFECTIVE REVIEW PROCEDURES

A. Pleading Cycle

In its Comments, Ameritech supported the Commission's proposal to require that petitions to suspend or reject a streamlined tariff filing be made 3 days after the filing, with replies to such petitions due 2 days later. MCI and AT&T propose different filing periods. MCI argues that the period for filing petitions against a tariff filing made on 15-days notice should be 4, not 3, days. AT&T proposes a 3/1 pleading cycle for 7-day filings, and a 7/2 pleading cycle for 15-day filings.

Ameritech does not oppose MCI's proposal. If the Commission believes that a 4/2 pleading cycle can be accommodated for 15-day filings, it would not be unreasonable for the Commission to give parties an extra day to review such filings.

Ameritech does, however, oppose AT&T's proposal, which is designed solely to stack the cards in favor of those opposing LEC tariffs. Obviously, one day is not sufficient time to read what could be several oppositions to a tariff filing, check the facts, formulate a response, write it, and file it at the Commission. Likewise, a 7/2 filing period is so imbalanced as to be patently unfair to LECs. The Commission should either affirm its original tentative conclusion or adopt MCI's proposed alternative.

B. Advanced Notice of Streamlined Filings

Ironically, while AT&T argues that LECs should be given just one day to prepare and file oppositions to petitions to suspend or reject their 7-day filings, MFS suggests that CLECs need at least 30 days advance notice of LEC streamlined filings in order to "schedule and devote resources to reviewing [such] filings[.]" According to MFS, "[s]ince the majority of, if not all, filings require internal planning and preparation well in advance of their actual filing, a posting requirement would place no undue burden on the ILECs[.]"[26] MCI proposes that LECs provide 7-day advance notice of streamlined tariff filings.

These proposals should be rejected. They are blatantly inconsistent with one of the principal purposes of streamlined regulation, which is to enable LECs to respond quickly to customers' needs and the demands of the marketplace. Particularly in the case of MFS, the proposal is a rather obvious ploy to deny this flexibility to LECs. In this regard, MFS's suggestion that a 30-day advance notice requirement would not be burdensome is absurd. As competition in access services continues to increase, carriers that are slow to respond in the marketplace will be left in the dust.

While MCI's proposal is not as draconian, and while Ameritech, as a matter of good business practice endeavors to give its customers as much advance notice of impending tariff changes as possible, the Commission should not -- and

26 MFS Comments at 10-11.

cannot -- require that any advance notice of planned tariff filings be given. The Act provides that LEC tariffs shall, unless suspended, be allowed to go into effect on 7 or 15 days notice. The Commission does not have discretion to effectively undo that provision by requiring advance notice of tariff filings before such filings are made. One of the purposes of section 204(a)(3) is to increase the ability of LECs to meet customer needs on a timely basis. Adding pre-filing notice requirements is inconsistent with this purpose.

That being said, Ameritech will continue to try to give as much notice as possible to MCI and other customers of impending tariff filings. However, the amount of notice will necessarily vary, depending upon competitive circumstances, customer needs, and the nature of the filing, and Ameritech opposes any blanket requirement that a specific amount of notice be given for every filing.

C. Confidential Treatment of Cost Support

While most parties either support or do not address the Commission's proposal to routinely impose a standard protective order whenever a carrier claims in good faith that information qualifies as confidential under relevant Commission precedent, several parties oppose this proposal. Some, such as AT&T, Time Warner and Ad Hoc, maintain that LECs should be required to prove that cost support should be protected on a case-by-case basis, but fail to explain how this could be accomplished in the context of streamlined tariff procedures.

TRA argues that LECs seeking to protect the confidentiality of cost support should be required to forego their right to streamlined treatment of tariff filings.

Similarly, MCI suggests that carriers seeking confidential treatment of cost data should first request, and be granted, a waiver of sections 0.453(j) and 0.455(b)911) of its rules. Both of these proposals would gut the streamlining provisions of the Act -- TRA's by effectively precluding LECs from exercising their right to streamlined tariff treatment in large numbers of cases, and MCI's by requiring that the tariff review process be preceded by a potentially lengthy waiver proceeding that would negate the benefits of streamlined tariff review.[27] This is not what Congress had in mind when it enacted section 204(a)(3). Moreover, as a matter of policy, neither of these proposals makes any sense. Those instances in which cost support is most deserving of protection are also the very instances in which the need for streamlined review of the tariff filing is greatest. Explicitly or effectively prohibiting both rights to be exercised simultaneously thus forces LECs to make a choice they should not have to make.

Those opposing the Commission's proposal imply that it would deny interested parties the ability to participate meaningfully in the tariff review process. This is untrue. Parties would still have complete access to cost information. They would not, however, be able to use this information for illegitimate, unintended purposes, such as to gain marketing and strategic advantages. The Commission itself has recently recognized the benefits of protective agreements, stating: "release of confidential information under a protective order or agreement can often serve to resolve the conflict between safeguarding competitively sensitive information and allowing interested parties

27 If the Commission requires that every request for confidentiality be addressed on a fact-specific, case-by-case basis, LEC competitors will see this as just another opportunity to use the regulatory arena as a forum for obtaining competitive advantages. They will contest every confidentiality request, hopeful that they will obtain information that would never be shared with a competitor in an unregulated market and confident that, at the very least, they will be able to delay LEC pricing and service initiatives.

the opportunity to fully resond to assertions put forth by the submitter of confidential information."[28] Particularly in the context of streamlined tariff filings, where there is no time for protracted adjudication over confidentiality claims, the use of protective agreements represents an appropriate compromise between conflicting interests.

VI. ELECTRONIC FILINGS

There is broad support in the record for a properly implemented electronic filing system. CITI aptly sums up the position of most parties when it states that electronic filing "promises to provide the telecommunications industry and other users with a system that accommodates real time access, more efficient evaluation of tariff filings and enhanced response time to Commission notices."[29] A number of parties note, however, that electronic filing could lead to significant, unnecessary costs if the Commission implements a system that does not accommodate multiple computer platforms. [30] As Ameritech noted in its Comments, there are products available, such as Adobe's Acrobat Exchange, that would allow users to create documents from both Macintosh and Windows by making use of a portable document format. The Commission should choose this type of product in implementing any electronic filing system.

When the Commission does implement electronic filing, it is imperative that use of the system be mandatory. Otherwise, those seeking filings would have

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28 Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Notice of Inquiry and Notice of Proposed Rulemaking, GC Docket No. 96-55, FCC 96-109, released March 25, 1996, at para. 36.

29 CITI Comments at 2. See also, e.g. Cincinnati Bell Comments at 9; TRA Comments at 9.

30 See e.g. US West Comments at 13; BellSouth Comments at 9; CITI Comments at 5.

to search both electronic databases and paper files, and the efficiencies associated with electronic filing would be lost. It is also imperative that the Commission be responsible for maintaining all documents after they have been filed. This is the only way to prevent parties from inappropriately changing information that has been filed and to maintain a consistent format for the sytem.

VII. ANNUAL FILING

In its Comments, Ameritech supported the Commission's proposal to require LECs to file a modified version of today's tariff review plan (TRP) prior to the streamlined annual filing. Specifically, Ameritech proposed that, fifteen days prior to the annual filing, price cap LECs file the following information for each price cap basket other than the common line basket: (1) the price cap index form showing existing and proposed price cap indices; (2) a description and explanation of any exogenous cost adjustments being made; and (3) proposed upper and lower bounds for the service band indices.

Sprint and most LECs oppose the Commission's proposal, arguing that it would provide little, if any, benefit.[31] AT&T and MCI, however, seek to turn this proposal into an added burden for LECs. They argue not only that the modified TRP be filed a full 90 days prior to the date of the annual filing, but that the Commission require LECs to file TRPs and cost support data in advance of any mid-term filing proposing changes to any price cap index.[32] According to AT&T,

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31 See e.g. Sprint Comments at 8; SBC Comments at 20; USTA Comments at 14; PTG Comments at 24; US West Comments at 16-17.

32 AT&T Comments at 17-18; MCI Comments at 27-28. Frontier appears to misconstrue the Commission's proposal insofar as it suggests that LECs would be required to file "supporting documentation -- including tariff review plans, other supporting documentation and rates" according to current schedules. Frontier Comments at 5.

this latter requirement is necessary to prevent LECs from deferring exogenous cost additions to their mid-term filing to avoid Commission review.

The Commission should reject these efforts to throw regulatory roadblocks at competition. There is no reason in the world why AT&T and MCI would need ninety days to review the pared-down TRP that LECs would file under the Commission's proposal. Fifteen days should be more than sufficient. Nor should the Commission hold up mid-term filings with new TRP requirements. That would be at odds with Congress' goal of reducing regulation. Moreover, there would be no public policy benefit from such a requirement. Contrary to AT&T's suggestion, LECs have every reason to obtain the quickest possible approval of exogenous cost additions, since that affords them added pricing flexibility.

VIII. CONCLUSION

As the Commission recognizes, the overriding goal of the 1996 Act is to provide for a pro-competitive, deregulatory framework that encourages the development of advanced technologies and services. This proceeding affords the Commission a direct opportunity to further this goal. The Commission should seize this opportunity by liberalizing the tariff review rules and procedures that apply to any new or revised charge, classification, regulation, or practice, as section 204(a)(3) requires. The Commission should allow such tariffs into effect on no more than 15 days notice and treat them as presumptively lawful, consistent with the treatment of all other streamlined filings.

Respectfully Submitted,

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October 24, 1996

CERTIFICATE OF SERVICE

I, Toni R. Acton, do hereby certify that a copy of the foregoing Ameritech Reply has been served on the parties listed on the attached service list, by first class mail, postage prepaid, on this 24th day of October 1996

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